



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

January 13, 2025

**By ECF**

The Honorable Stewart D. Aaron  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Florence Immigrant and Refugee Rights Project, et al. v. United States Department of Health and Human Services, et al.*, No. 24 Civ. 6740 (SDA)

Dear Judge Aaron:

This Office represents Defendants United States Department of Health and Human Services (“HHS”), United States Customs and Border Protection (“CBP”), United States Immigration and Customs Enforcement (“ICE”), and United States Department of Homeland Security (“DHS,” and together with HHS, CBP, and ICE, the “Government”) in the above-referenced Freedom of Information Act (“FOIA”) action. We write jointly with Plaintiffs Florence Immigrant and Refugee Rights Project, the Center for Constitutional Rights, and L.B. (together, “Plaintiffs”) in response to the Court’s order to provide status updates every 30 days. *See* Dkt. No. 24.

This matter concerns FOIA requests Plaintiffs submitted to HHS, CBP, ICE, and DHS. These requests seek records concerning the use of dental and bone radiographs for the determination of ages of people in the custody of DHS, CBP, ICE, or HHS’s Office of Refugee Resettlement (“ORR”). The parties have met and conferred regarding the processing of these FOIA requests and provide the following status updates<sup>1</sup> broken down by agency:

- **HHS:** ORR located approximately 5,800 medical age assessments. ORR and Plaintiffs have agreed that the agency will initially process 400 pages from those assessments and produce responsive, non-exempt portions thereof. Plaintiffs will then review the produced pages to assess whether there is a possibility of narrowing the FOIA request and/or crafting targeted searches to locate responsive documents.
- **CBP:** The parties continue to confer regarding possible narrowing of Plaintiffs’ FOIA request. CBP is considering Plaintiffs’ counterproposal with respect to the requested guidance, policies and procedures and is preparing a narrowing proposal

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<sup>1</sup> Plaintiffs received several updates from the agencies on January 13, 2025, and have not had time to fully discuss these updates with Defendants’ counsel. Plaintiffs therefore reserve their right to inquire further and/or potentially raise concerns at the parties’ next meet-and-confer regarding any of the agency updates.

with respect to Plaintiffs' request for communications between CBP and Drs. David Senn and Peter Arvanitis. The parties are also conferring regarding the search and processing of I-213s.

- **ICE:** ICE made an initial production of two Excel spreadsheets responsive to Plaintiffs' FOIA request on November 13, 2024, and it made a second production of responsive, non-exempt records on December 18, 2024. ICE intends to make a third production of responsive, non-exempt records by January 21, 2025. Plaintiffs have made inquiries regarding the Excel spreadsheets produced on November 13, 2024, and ICE is preparing a response to these inquiries. The parties also continue to discuss Plaintiffs' request for communications between ICE and Drs. David Senn and Peter Arvanitis.
- **DHS:** DHS's Privacy Office has preliminarily identified 15,894 pages of potentially responsive records. From that set and with agreement from Plaintiffs, DHS will process potentially responsive e-mails first and produce responsive, non-exempt portions thereof. Plaintiffs will then review the e-mails and indicate whether there are any specific attachments to those e-mails that they would like DHS to process. Plaintiffs also requested that DHS search its Office for Civil Rights and Civil Liberties ("CRCL") and its Office of the Inspector General ("OIG"). OIG's Office of Audits and Office of Inspections and Evaluations have confirmed that they do not have any documents responsive to the FOIA request. CRCL has conducted initial searches of its case files database and has identified some potentially responsive records. CRCL is currently undertaking a review of those records to assess responsiveness and applicable exemptions.

The parties thank the Court for its consideration of this joint status report and will file their next joint status report by February 12, 2025.

Respectfully,

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